

## **REMARKS/ARGUMENTS**

The rejection presented in the Office action dated January 29, 2010 (hereinafter Office Action), has been considered but is believed to be improper. Reconsideration of the pending claims and allowance of the application in view of the present response is respectfully requested.

The claim set (including independent claims 1, 10, 19, and 28) has been amended to consistently identify the claimed messages as received text messages. While these limitations were implicit in the previous claim language, further support for these changes may be found in the pending independent claims and at page 4, lines 18-29; therefore, the changes do not introduce new matter. These claims, with or without the changes, are believed to be patentable over the teachings of the asserted references for the reasons set forth below.

Applicant respectfully maintains the traversal of the § 103(a) rejection based upon the teachings of U.S. Publication No. 2003/0100295 by Sakai *et al.* (hereinafter “Sakai”) as modified by those of U.S. Patent No. 6,516,202 to Hawkins *et al.* (hereinafter “Hawkins”) and WO 01/28192 to Sharp (hereinafter “Sharp”) because the asserted references alone, or in combination, fail to teach or suggest each of the claimed limitations. For example, none of the asserted references teaches or suggests constituting a collection of both received unanswered call data and at least one saved received text message by combining together the unanswered call data and the saved received text messages which both refer to the same caller, into a single contact attempt related to the caller, as claimed in each of the independent claims. The Examiner has correctly admitted that Sakai fails to teach that contact attempts include a saved text message since Sakai only describes the presenting of a missed calls list with call connection data. Also, Sharp has not been asserted as teaching, or shown to teach or suggest, the claimed combination of unanswered call data with a received text message that both refer to the same caller. Therefore, the rejection relies upon the teachings of Hawkins; however, this reliance is misplaced.

### **Hawkins does not teach or suggest combining a text message with unanswered call data.**

First, Hawkins has not been shown to combine unanswered call data with message data. Rather, Hawkins teaches using separate screens to display a missed call 883 and a

voicemail 886. Notably, the display of a voicemail is a separate (third) option in Hawkins' system. The use of separate screens to illustrate the missed call and voicemail fails to correspond to the claimed combination of unanswered call data with a text message into a single contact attempt.

Second, the Examiner acknowledges (at page 2 of the Advisory action) that the cited portions of Hawkins' column eight and Fig. 8B refer to a voicemail message. In an effort to overcome this deficiency, the Examiner alleges, "Hawkins teaches or suggests that the 'message' could either be a voicemail message or text/e-mail message." However, the assertion that the text message indicator disclosed at column 7, lines 31-33, refers to Hawkins' incoming call alert of Fig. 8B is unsupported and incorrect. Rather, the cited portion at column 7 refers to screen shots of Hawkins' dialing process. The cited portion of Hawkins states:

At the top of the speed dialing screen 810, and every other base screen for one embodiment, are indicators. There is a time indicator, a message indicator, a signal strength indicator, and a battery strength indicator. **For one embodiment, there are two message indicators, indicating either a voicemail message or a text/e-mail message.** For one embodiment, the message indicator may further include service provider information as well. (emphasis added)

As set forth previously, Hawkins' reference to a text message indicator only suggests that an indicator may be provided when the user device has received a text message. There is no suggestion that the voicemail message shown during an incoming call alert on screen 886 in Fig. 8B could be a text message. Nothing in the passage reproduced above, nor anywhere else in Hawkins, describes or otherwise contemplates the claimed collection of both received unanswered call data and at least one saved text message by combining together the unanswered call data and text messages. Notably, relied-upon reference numeral 780 (Check SMS screen option) is not mentioned in Hawkins' specification. Thus, there is no teaching or suggestion that an option to check SMS messages would correspond to the claimed combination of a text message with unanswered call data in a single contact attempt. The fact that Hawkins includes an indicator when a text message is received and an option to check SMS messages fails to correspond to the claimed limitations. There is nothing in Sakai,

Hawkins, or Sharp, whether considered individually or collectively, that teaches or suggests combining unanswered call data with a text message(s), as claimed.

From the teachings of Hawkins, a skilled artisan would not merely “replace” Hawkins’ voicemail indication (*e.g.*, item 886 of Fig. 8B) with a text message that relates to a different contact attempt. Not only is Hawkins silent in this regard, what Hawkins describes is a voicemail message resulting from the very same call that identifies the caller. For example, item 886 of Hawkins’ Fig. 8B reads as follows:

Ron Marianetti  
650-555-12112  
11:35 am Yesterday

What this suggests is that a voicemail, resulting from a call at “11:35 am Yesterday” is available. However, the claimed limitations include collection of both received unanswered call data and at least one saved text message from different occurrences – *i.e.* the claimed text message(s) is not a result of the received unanswered call data, as the voicemail is in the Hawkins reference. Thus, it is not possible to simply replace Hawkins’ voice message with a text message because Hawkins does not describe (or even consider) how one would combine unanswered call data with a text message, as a text message does not by its nature occur as a result of a missed “call.”

For at least the reasons above, Hawkins does not describe what the Examiner purports, which evidences a lack of *prima facie* obviousness. Applicant respectfully requests reconsideration of the application of Hawkins in the rejection and withdrawal of the rejection. Further, nothing in Sakai nor Sharp teaches or suggests at least the combination of unanswered call data and text messages as is set forth in the independent claims. Because none of Sakai, Hawkins, or Sharp teaches or suggests such claimed features, a combination of such references fails to teach or suggest these claimed features.

The Examiner further acknowledges that Sakai in view of Hawkins fails to teach that content of the text message is descriptive of a reason for the unanswered call data and to present the contact attempt together with content of the text message to indicate the reason for

the unanswered call data, as claimed in each of the independent claims. While Sharp is relied upon to overcome this deficiency, this reliance is also misplaced.

Sharp does not teach or suggest content of a text message being descriptive of a reason for unanswered call data.

While Sharp teaches presenting the content of a text message, the claimed limitations recite (using claim 1 as an example) that the content of a text message is “descriptive of a reason for the unanswered call data.” Thus the content of the text message relates to a previously unanswered call. Although the content of Sharp’s text message “is descriptive of a reason” as asserted by the Examiner at page 3 of the Advisory action, Sharp’s text message content is not descriptive of a reason for the unanswered call data. Rather, Sharp has not been shown to associate any unanswered call data together with the content of the text message. The Examiner argues that selecting the message in Sharp within the Inbox displays the contents of the message “to indicate a reason for the contact attempt.” However, if this is the case, then Sharp’s indication of a reason for the contact attempt relates to the text message attempt itself and not to an unanswered call.

It is respectfully submitted that portions of the cited prior art are being pieced together in an attempt to arrive at the claimed invention, where the Examiner is giving different meaning to the same claim features. By indicating that Sharp’s text message provides a reason for sending the text message itself, the rejection ignores the claim language that indicates that the single contact attempt (that the claim indicates includes the combined unanswered call data and text message) is presented with the content of the text message. As is the case in Hawkins, Sharp has not been shown to teach or suggest a relationship between unanswered **call** data and a text message that indicates a reason for the unanswered **call**.

For at least these additional reasons, Sharp does not remedy the deficiencies of Hawkins and Sakai. It is respectfully submitted that Sharp does not describe what the Examiner purports, which fails to establish *prima facie* obviousness. Applicant respectfully requests reconsideration of the application of Sharp to the rejection and withdrawal of the rejection. Since neither Sakai nor Hawkins teaches or suggests at least the content of a text

message being descriptive of a reason for unanswered call data, the asserted combination of Sakai, Hawkins, and Sharp fails to correspond to at least these limitations.

To establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974); and moreover, “[a]ll words in a claim must be considered in judging the patentability of that claim against the prior art.” *In re Wilson*, 424 F.2d 1382, 1385, 165 USPQ 494, 496 (CCPA 1970). *See, e.g.*, MPEP § 2143.03. The Examiner appears to have ignored certain claim limitations such as those directed to combining together unanswered call data and saved received text messages which both refer to the same caller, which have not been shown to be taught by any of the cited references. Without a presentation of correspondence to each of the claimed limitations, the § 103(a) rejection cannot be maintained. Applicant accordingly requests that the rejection be withdrawn.

Dependent claims 3-8, 12-17, 21-26, 30-35, and 37, which depend from independent claims 1, 10, 19, and 28 respectively, are also rejected under 35 U.S.C. § 103(a) as being unpatentable over the combination of Sakai, Hawkins, and Sharp. While Applicant does not acquiesce with any particular rejections to these dependent claims, including any assertions concerning common knowledge, obvious design choice and/or what may be otherwise well-known in the art, these rejections are moot in view of the remarks made above in connection with the independent claims. These dependent claims include all of the limitations of their respective base claims and any intervening claims, and recite additional features which further distinguish these claims from the cited references. “If an independent claim is nonobvious under 35 U.S.C. §103, then any claim depending therefrom is nonobvious.” MPEP § 2143.03; *citing In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988). Therefore, dependent claims 3-8, 12-17, 21-26, 30-35 and 37 are also allowable over the combination of Sakai, Hawkins and Sharp.

It should be noted that Applicant does not acquiesce to the Examiner’s statements or conclusions concerning what would have been obvious to one of ordinary skill in the art, obvious design choices, common knowledge at the time of Applicant’s invention, officially

noticed facts, and the like. Applicant reserves the right to address in detail the Examiner's characterizations, conclusions, and rejections in future prosecution.

Authorization is given to charge Deposit Account No. 50-3581 (OSN.009.US) any necessary fees for this filing. If the Examiner believes it necessary or helpful, the undersigned attorney of record invites the Examiner to contact the undersigned attorney to discuss any issues related to this case.

Respectfully submitted,

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